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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,551	01/25/2007	James H. Anson	27726-100553	1853
23644 7590 05/04/2010 BARNES & THORNBURG LLP P.O. BOX 2786 CHICAGO, IL 60690-2786				
EXAMINER ROSENBAUM, MARK				
ART UNIT 3725		PAPER NUMBER		
NOTIFICATION DATE 05/04/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patent-ch@btlaw.com

Office Action Summary

Application No.

10/553,551

Applicant(s)

ANSON, JAMES H.

Examiner

Mark Rosenbaum

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5, 7, 8, 13-20 and 25-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 13-16, 18, 20, 25-29 is/are rejected.
- 7) ☒ Claim(s) 5, 7, 8, 17, 19 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Allowable Subject Matter

Claims 5,7,8,17,19,20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims rejected below have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

Claim 29 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. How can the burr adjuster act against and with the spring at the same time?

Claim Rejections - 35 USC § 102

Claims 1,13-15,18,26,28,29 are rejected under 35 U.S.C. 102(b) as being anticipated by Walsh. This patent discloses a grinder including stationary and rotary burrs, an auger located between them, and adjusting means for the rotatable burr.

Claim Rejections - 35 USC § 103

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh as applied to claim 1 above, and further in view of either Brenholdt or Dodson-Edgars. Walsh does not use a gap sensor to help control material gap which results in an

inefficient operation. Both secondary references solve this problem by showing similar apparatus including the use of gap sensors. In order to provide for efficient operation, it would have been obvious for one of ordinary skill in the art to modify Walsh by providing gap sensors, taught to be desirable by both secondary references..

Claims 1,13-16,18,26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ephraim et al in view of Walsh. This patent discloses a grinder including stationary and rotary burrs, an auger feeding material to them, and adjusting means for the rotatable burr. The auger does not extend into the space between the burrs which may result in inefficient material feed. Walsh solves this problem by disclosing similar apparatus including the use of an auger extending into the space between burrs. In order to efficiently feed material, it would have been obvious for one of ordinary skill in the art to modify Ephraim et al by extending the auger into the space between the burrs, taught to be desirable by Walsh.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ephraim et al in view of Walsh as applied to claim 1 above, and further in view of either Brenholdt or Dodson-Edgars. Ephraim et al does not use a gap sensor to help control material gap which results in an inefficient operation. Both secondary references solve this problem by showing similar apparatus including the use of gap sensors. In order to provide for efficient operation, it would have been obvious for one of ordinary skill in the art to modify Walsh by providing gap sensors, taught to be desirable by both secondary references.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Rosenbaum whose telephone number is 571-272-4523. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached on 571-272-4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark Rosenbaum
Primary Examiner
Art Unit 3725

/Mark Rosenbaum/
Primary Examiner, Art Unit 3725